

**Tennessee Department of Labor & Workforce Development
Workers' Compensation Division
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2006 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview and does not include all workers' compensation legislation passed by the General Assembly. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.legislature.state.tn.us.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2006 through June 30, 2007 is 110% of the state's average weekly wage, \$750.00.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2006 through June 30, 2007 is 100% of the state's average weekly wage, \$682.00.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2006 through June 30, 2007 for both temporary and permanent benefits is \$102.30.

APPROVAL OF ATTORNEY FEES

For the year beginning July 1, 2006 and ending June 30, 2007 the adjusted threshold amount for attorney fees subject to review/approval by the Commissioner of Labor and Workforce Development is \$14,388.17.

REQUEST FOR RECONSIDERATION OF SPECIALIST'S ORDER

Public Chapter 772 gives the party against whom a specialist has issued an order the right to submit a "request for reconsideration". This will include any order that denies the compensability of the employee's claim or denies workers' compensation benefits to the employee. In addition, the party against whom an order for the payment of workers' compensation benefits is issued may request that the administrator reconsider the specialist's order. After receipt of a written request for reconsideration of a specialist's order, an informal conference with the affected parties shall be conducted by the administrator or the administrator's designee. Additional information may be obtained by contacting Penny Shrum at Penny.Patterson-Shrum@state.tn.us.

WAGE STATEMENT, MEDICAL IMPAIRMENT RATING REGISTRY, UNINSURED EMPLOYER

Senate Bill 3900/House Bill 4032 requires the insurer, employer, or self-insured pool, to file a wage statement on a form prescribed by the department within 30 calendar days of the date of notice of injury for injuries causing seven days of loss time or permanent impairment. Failure to file will allow a workers' compensation specialist to order the employee's compensation rate to be the maximum workers' compensation rate effective on the date of injury. Upon receipt of the wage statement the Workers' Compensation Specialist's order will be adjusted to reflect the appropriate benefit rate for future benefit payments.

For the purpose of the Medical Impairment Rating Registry, this Bill includes the Second Injury Fund in the definition of party or parties.

The bill adds "uninsured employer" to the law for the purpose of issuing a penalty for non-compliance with an order issued by a Workers' Compensation Specialist.

COUNTY OR MUNICIPALITY

Public Chapter 703 specifies an employer who is a county or a municipal corporation or their employee may file a civil suit in the county where the governmental entity is located or in the county where incident occurred if the parties are unable to reach an agreement at a Benefit Review Conference. This excludes the county where the employee lives.

Public Chapter 912 expands the present \$25,000 death benefit paid to the estate of volunteer firefighters who are killed in the line of duty to include full-time firefighters, sheriffs, sheriff's deputies and police officers.

GENERAL SESSIONS COURT SCOTT COUNTY

This act is subject to local approval, Private Chapter 80, confers general session court jurisdiction concurrent with circuit and chancery courts over workers' compensation and sets salary of judge in Scott County. This act takes effect on September 1, 2006.

MEDICAL FEE SCHEDULE

Public Chapter 902 requires the Commissioner of Labor and Workforce Development to submit any proposed changes to the Medical Fee Schedule to the Advisory Council on Workers' Compensation and the Medical Care and Cost Containment Committee for review and comment and to hold a public hearing when substantive changes are proposed to the workers' compensation medical fee schedule.

Public Chapter 687 authorizes the Commissioner of Labor and Workforce Development to impose civil penalties against providers who after proper notification and appropriate time to respond refuse to make repayment to a payor that exceeds the medical fee schedule.

SECOND INJURY FUND

Public Chapter 778 provides the ability to obtain a refund from the Second Injury Fund to any entity or person who paid benefits to an employee as the result of a specialist's order if a court later determines the employee was not entitled to the benefits. It also clarifies that in order to receive a refund for payment of benefits the claim must be fully concluded by the trial court or, if appealed, by the Tennessee Supreme Court. In addition, it clarifies that in order to receive a refund a certified copy of the final order must be sent by certified mail. If the refund is not made within 30 days of the date the certified mail was accepted by the division, then the employer or employer's insurer shall be entitled to interest at a rate of 10% per annum from the date the refund became overdue.

REMINDER

Section 50-6-208 was amended in the 2005 Legislative Session and requires the provisions of subdivision (b)(1) apply only to injuries that arise on or before June 30, 2006, and shall have no applicability to injuries that arise on or after July 1, 2006.

WORKERS' COMPENSATION ADVISORY COUNCIL

Public Chapter 645 updates references to include the Reform Act of 2004 and removes the reference to the Workers' Compensation Fraud Act since the Tennessee Bureau of Investigation no longer has a Workers' Compensation Fraud Unit. In addition, it removes the summary in the annual report of the Workers' Compensation Advisory Council of all permanency awards broken down by judicial district.

DEPARTMENT OF COMMERCE AND INSURANCE

Public Chapter 536 allows the Commissioner of the Department of Commerce and Insurance to impose a civil penalty of up to \$10,000.00 per occurrence upon a finding that a workers' compensation insurer, without any lawful basis, has assessed an employer premium for individuals who are not employees or on the basis of improper classification of employees. It grants the Commissioner authority to promulgate rules.

Senate Bill 2892/House Bill 3471, creates additional requirements for trade associations which sponsor workers' compensation pools for qualifying as self-insures. This bill contains specific requirements that a member of the pool must remain a member of the sponsoring trade association. It gives the sponsoring trade association the right to determine whether or not a pool shall remain in existence.